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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,850	08/09/2006	Uwe Berger	810119	7034

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LEYDIG, VOIT AND MAYER
TWO PRUDENTIAL PLAZA, SUITE 4900
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EXAMINER
JENNISON, BRIAN W

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
03/03/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/597,850	BERGER ET AL.	
	Examiner	Art Unit	
	BRIAN JENNISON	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 6-7, 9-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Walkoe (US 2,907,859) in view of Lile (US 2004/0027248).

Regarding Claim 6: A method for operating a cooking appliance having a cooking appliance control system **(Circuit and timer control. See Column 2, Lines 20-23)** and a door moveable between a closed position and an open position, the method comprising: **(Fig 2 shows door 7 in a closed position and is movable to an open position. See Column 3, Lines 1-2)**

automatically moving the door from the closed position to the open position using the cooking appliance control system in response to a first signal when a cooking process is complete; and **(The door 7 is moved from a closed to open position when the cooking process is complete, when a timer expires or when the food reaches a preselected temperature and sends a current signal to a bimetallic switch. See Column 2, Lines 5-16)**

automatically returning the door from the open position to the closed position when a physical quantity falls below a predetermined threshold value stored in a memory of the cooking appliance control system. **(The appliance is capable of closing the door**

when the temperature stored in its memory falls below a value since the device has all the necessary elements for performing this function. The ram will retract to its original position when the circuit is broken, closing the door. See Column 7, Lines 20-25.)

Regarding Claim 7: A cooking appliance comprising: **(Domestic cooking oven. See Column 1, Line 3)**

a cooking chamber bounded by a housing; **(Electric range 1 comprises a metal body 2 and a cooking cavity 5 with an oven liner 6 making up a cooking chamber bound by a housing. See Column 2, Lines 65-72)** a door moveable between a closed position and a predetermined open position; a cooking appliance control system having a memory; (**When the thermometer control knob is set the temperature value is stored. The timer 14 also performs a similar function for storing time. Fig 2 shows door 7 in a closed position and is movable to an open position. See Column 3, Lines 1-2)**

a sensor disposed in the cooking chamber configured to send an output signal to the cooking appliance control system; **(a probe 10 sends a signal to a thermometer circuit. See Column 4, Lines 7-11. A timer switch 14 and thermometer control knob 18 make up the cooking appliance control system. See Column 3, Lines 25-30)**

a guide device; and **(a push rod frame 48 and a round base cavity 55 act as a guide device. The crank 58 guides the door to an open or closed position. See Column**

5, Lines 4, 17, 35 and Figs 3 and 4)

a door opening device including a positioning motor **(the ram actuator 42 is a positioning motor for opening the door. See Column 4, Lines 66-70)** and a rod configured to be automatically reciprocated in the guide device by the cooking appliance control system via the positioning motor **(the ram 47 or rod is moved by the ram actuator or motor in the guide device made of push rod frame 48 and round base cavity 55)** so as to automatically move the door from the closed position to the predetermined open position **(oven door is opened by the actuator. See Column 5, Lines 22-23)** and from the predetermined open position to the closed position, **(The ram returns to is original retracted position closing the oven door. See Column 7, Lines 22-23)** the cooking appliance control system configured to actuate the positioning motor as a function of the output signal so as to automatically move the door from the closed position to the predetermined open position when a cooking process is complete **(The door 7 is moved from a closed to open position when the cooking process is complete, when a timer expires or when the food reaches a preselected temperature. See Column 2, Lines 5-16. Since the door is opened in response to time this is a first condition. The door closing when the circuit is broken by the bimetallic switch is a different second condition.)** and to actuate the positioning motor so as to automatically return the door to the closed position when a physical quantity falls below a predetermined threshold value stored in the memory. **(The appliance is capable of closing the door when the temperature stored in its memory falls below a value since the device has all the necessary elements for**

performing this function. The ram will retract to its original position when the circuit is broken, closing the door. See Column 7, Lines 20-25. The door is not completely closed due to a stopping element. However, all the opening components retract which would allow one of ordinary skill in the art to configure the door to close automatically.)

Walkoe fails to teach:

Regarding Claims 6 and 7: closing the door in response to a second condition indicative of a physical quantity falling below a predetermined threshold, wherein the first and second signals are different,

Since Walkoe discloses that the arm which opened the door returns to the "closed" position after a temperature had fallen below a threshold even though the stopping element keeps the door open, It would have been obvious to close the door automatically once the threshold temperature has been reached since one having ordinary skill in the art would recognize the advantages of closing the door so the temperature in the chamber does not decrease as quickly once the door has been opened to prevent the food from overcooking.

Lile teaches:

Regarding Claims 6 and 7: The door opens or closes based on the amount of voltage applied. **See Paragraph [0021].** Since the voltage is different the opening (first) and

closing (second) signals are different. The differing voltages are different conditions since the opening and closing conditions are not the same.

In view of the teachings of Lile it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Walkoe, closing the door in response to a second signal and the first and second signals being different since Lile teaches closing a door in response to a voltage level for closing a door when a process is completed and the opening and closing voltage signals being different for differentiating between the opening and closing signals to allow for opening or closing depending on which is required.

Furthermore, Walkoe discloses the claimed invention except for automatically closing the door. It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically close the door, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Walkoe also teaches:

Regarding Claim 9: The cooking appliance wherein the positioning motor includes an electrically heatable shape-memory element. **(The thermometer circuit which**

controls the operation of the actuator 42 or motor and is part of the motor includes a bimetal strip 24 which is heated by the bimetal strip heater 25. The strip moves when heated to connect with contact 26. The strip will move and disconnect when the heat is not applied. This strip is a heatable shape-memory element. See Column 4, Lines 11-17. Also, a temperature sensitive material is located in the heating element 66 which increases or decrease in volume depending on the temperature controls the activation of the ram actuator. The material is heated and changes from a solid to liquid state axially displacing the ram. When the material solidifies it contracts and allows the ram to retract. See Column 5, Line 5 - Column 6, Line 7.) The applicant also discloses a shape memory element device capable of opening an oven door which can be used for opening and closing a device. See Paragraph [0004] of the specification.)

Regarding Claim 10: The cooking appliance further comprising a return element disposed between the door and the housing, wherein the return element is in force-transmitting connection with the door and the housing and is configured to aid the return of the door from the predetermined open position to the closed position.
(A hinge lever 33 connected to the oven door 7 is connected to a spring 35 which is secured to the body by bracket 36. This spring helps urge the door back to a closed position. See Column 4, Lines 43-50)

Regarding Claim 11: The cooking appliance further comprising at least one of a spring device and a damping device mounted on the rod and configured to retard a movement of the door from the closed position to the predetermined open position. **(A spring 52 is mounted on the push rod center section 53 shown in Fig 2. This spring is capable of retarding the movement of the door from the closed to open position. See Column 5, Line 13. There is also a buffer tip 112 shown in figure 7 for the same function which can be used with the spring 52)**

Regarding Claim 12: The cooking appliance further comprising at least one of a spring device and a damping device mounted on the rod and configured to retard a movement of the door from the predetermined open position to the closed position. **(A spring 52 is mounted on the push rod center section 53 shown in Fig 2. This spring is capable of retarding the movement of the door from the open to closed position. See Column 5, Line 13. There is also a buffer tip 112 shown in figure 7 for the same function which can be used with the spring 52)**

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walkoe as modified by Lile in further view of Berger et al (US 2003/0010221).

The teachings of Walkoe as modified by Lile have been discussed above.

Walkoe as modified by Lile fails to teach:

Regarding Claim 8: The cooking appliance as recited in claim 7, wherein the cooking appliance is a steam cooking appliance.

Berger et al teaches:

Regarding Claim 8: a steam cooking apparatus **(See Paragraph [0002], Line 1)**

In view of Berger et al's teachings it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Walkoe, the cooking appliance as a steam cooking appliance since, Berger et al teaches a steam cooking apparatus for energy savings and a uniform temperature distribution in the entire cooking chamber.

Response to Arguments

1. Applicant's arguments filed 6/15/2010 have been fully considered but they are not persuasive.

In response to applicant's arguments regarding Walkoe, since Walkoe discloses that the arm returns to the "closed" position after a temperature had fallen below a threshold even though the stopping element keeps the door open, It would have been obvious to close the door automatically once the threshold temperature has been reached since one having ordinary skill in the art would recognize the advantages of closing the door so the temperature in the chamber does not decrease as quickly once the door has

been opened to prevent the food from overcooking. Furthermore, Walkoe discloses the claimed invention except for automatically closing the door. It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically close the door, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192. The latter obviousness rejection has not been addressed.

In response to applicant's arguments regarding Lile, the part of the reference applicant cites is a different embodiment than what is cited in the rejection. Paragraph [0029] states "the door 3 opens automatically." Paragraph [0030] states "Alternatively, the door may be manually closed by the user." This statement shows that the door is closed automatically in response to a condition different that condition for which the door is opened.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN JENNISON whose telephone number is (571)270-5930. The examiner can normally be reached on M-Th 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TU HOANG can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN JENNISON/
Examiner, Art Unit 3742

2/25/2011

/Mark H Paschall/
Primary Examiner, Art Unit 3742